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Horse Protection Strategic Plan



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Acknowledgments

This Horse Protection Strategic Plan was initiated by Animal and Plant Health Inspection Service (APHIS) officials in December 1995 as a corollary to the Animal Care Strategic Direction Plan and in response to program concerns. A committee was formed in February 1996 to draft a preliminary plan. APHIS elected to seek public input on these proposed policy and regulatory changes and published notice of public forums in the *Federal Register* on July 3, 1996.

Three public meetings were convened in 1996 to gather comments regarding the proposed strategic plan: July 26 in Murfreesboro, TN, August 2 in St. Louis, MO, and August 16 in Sacramento, CA.

These were open forums attended by APHIS personnel, Horse Industry Organization (HIO) representatives, animal interest groups, and other concerned individuals. The agenda consisted of breakout sessions covering the following main components of the strategic plan:

- Horse protection enforcement plan
- USDA certification of the horse industry
- Uniform rules and sanctions
- Training and research

Comments from these forums were compiled by the chairperson and are available at <http://www.aphis.usda.gov/ac> on the World Wide Web. All comments were considered by the strategic planning team, and this document was revised to embody those ideas.

This document is not intended to supersede the Horse Protection Act (HPA) or its regulations. Implementing the items printed in Times Roman and underscored (like this sentence) will necessitate changing current regulations. Changing these regulations entails publishing the proposed rules in the *Federal Register*, allowing time for public comments to be submitted and analyzed, and publishing the final rules. Because public comments may necessitate further revisions in the regulatory language, APHIS cannot predict the final outcome of any proposed regulatory changes.

Mission Statement

The U.S. Department of Agriculture (USDA), APHIS, in its enforcement of the HPA, seeks to continue to strengthen its association with the horse industry

through a cooperative working relationship and a comprehensive plan to achieve the elimination of soring.¹

Statement of Philosophy

The Congress of the United States has sought to eliminate the practice of soring through passage and enforcement of the HPA.

The welfare of horses has been, and continues to be, the primary concern of APHIS veterinarians responsible for the enforcement of this law. APHIS now seeks to strengthen USDA-certified HIO's with a proactive regulatory program directed toward the elimination of both blatant and inconspicuous methods of soring. APHIS recognizes the challenges of this proposal; however, we believe these can be overcome through a cooperative, objective approach. All certified HIO's will continue to be treated equally under the program.

APHIS believes the HIO's should (and has expectations that they will) adhere to the intent of the HPA and its accompanying regulations to relieve the suffering of sore horses. Detection methods must continuously advance and become more sophisticated as soring techniques change, to ensure fairness among all participants and to reinforce APHIS' commitment to eliminating this practice.

Rationale

Enforcement History

The HPA was passed by Congress in 1970, and Federal veterinarians began its enforcement by attending horse shows in 1972. Despite more than 20 years of Government intervention and regulation and an amendment to the Act to incorporate Designated Qualified Persons (DQP's) to inspect horses, the practice of soring continues.

¹ In this brochure, "sore" refers not to routine muscle soreness but to the condition of "having been sored," e.g., a "sore horse" exhibits signs of pain or discomfort brought on by chemical or mechanical irritants applied to any limb. The definition of "soring" is in the glossary on p. 8.

Enforcement statistics compiled for congressional reports support USDA contentions that the time for adoption of the Horse Protection Strategic Plan is now. These statistics indicate a discrepancy in the number of DQP-assessed violations at shows or sales when APHIS is present as compared to when APHIS is not present. APHIS believes this gap can be reduced through adopting and implementing this Horse Protection Strategic Plan, which includes HIO audits. This information will be used to assess HIO performance at those shows APHIS was unable to attend.

Program Concerns

Public forum discussions indicated discontent in the following areas:

- HPA compliance at unaffiliated shows
- Elimination of all methods of soring not a priority for all of industry
- Scar rule compliance
- Inadequate and inconsistent industry penalty systems
- Conflicts of interest within and among various industry organizations
- Lack of exploration of alternative methods of detecting and evaluating soring through research
- Conflict resolution between USDA and industry organizations.

APHIS Vision for the Program

The concept of enforcing the HPA in conjunction with the horse industry is consistent with the APHIS vision. Team-based leadership between APHIS and the horse industry is the first step in achieving our mutual goal of eliminating the inhumane practice of soring.

APHIS is aware that there is public interest in the horse protection program, and we are committed to delivering services of the highest quality. APHIS can accomplish this goal through a process of open communication, continual program evaluation, and strong, proactive leadership.

Horse Protection Enforcement Plan

Partnership in Enforcement of the Horse Protection Act

APHIS will not relinquish its authority under the Act or regulations but agrees to redefine its oversight of the horse industry through advisory, audit, and inspection roles. USDA-certified HIO's would enter into a cooperative enforcement partnership with APHIS. Enforcement of the horse protection program at affiliated shows or sales would be placed primarily upon the horse industry DQP systems. HIO's would be held accountable for the outcomes resulting from their DQP inspection programs. USDA certification would be contingent, in part, upon the satisfactory fulfillment of DQP program operations.

Measurable performance standards for the horse protection program will be developed and continually reviewed to ensure accuracy and reliability.

Communication between APHIS program managers and horse industry representatives would be formalized through specified meetings, direct involvement of APHIS regional offices with industry representatives, strategic planning committee workshops with industry personnel, and specialized training for industry organizations.

USDA Oversight of Industry

Deputy Administrator for Animal Care

- Certifies and decertifies HIO's.
- Allocates budgets for APHIS activities related to horse protection.

Horse Protection Advisory Team (see definition in Glossary)

- Recommends certification status of HIO's.
- Reviews and approves industry rulebooks for compliance with the HPA.
- Initiates and reviews program projects (training and research), policy, and regulatory changes and organizes public meetings with industry representation to address current issues.

Regional Horse Protection Coordinator

—Assigns APHIS veterinarians to HIO-affiliated and unaffiliated shows and sales and conducts performance reviews. Veterinary Medical Officers (VMO's) will be routinely assigned from their respective regions based on show schedules and available resources.

—Receives reports or data generated by HIO or show management (DQP tickets, show reports, updated suspension lists, etc.) and makes this information available to the public (for example, on the World Wide Web).

—Generates Letters of Warning on DQP's to the directors of the Horse Industry Organizations' DQP programs.

—Initiates action based on reports of noncompliance at unaffiliated shows (for example, submits documentation of HPA violations to APHIS' Investigative and Enforcement Services [IES] unit).

—Communicates directly with industry representatives in areas involving training, daily operations, dispute resolution, and regional requests by industry officials.

APHIS Veterinarians

—Audit industry records, with assistance from IES investigators. Unannounced inspections will be performed by teams during ordinary business hours.

—Participate in and provide instruction at training courses.

—Observe and evaluate DQP's in the performance of their duties at shows and sales utilizing currently accepted APHIS reports, such as the DQP evaluation form and narrative.

—Inspect horses and initiate HPA cases, when necessary, at both affiliated and unaffiliated shows and sales.

Horse Industry Organizations' Responsibilities

—Formulate uniform HIO rulebooks to ensure consistency with the HPA and submit them for APHIS review as mandated under Title 9 of the Code of Federal Regulations (CFR), section 11.41 and 9 CFR Part 11, and approval.

—Enforce standards of conduct for DQP's as stated under 9 CFR 11.7(d)(7) and for industry officers.

—Issue DQP licenses to qualified candidates and develop and provide uniform and consistent training under 9 CFR 11.7(a-c) and (d)(6).

—Submit show schedules (30 days prior to shows) and DQP assignments (14 days prior to shows) to the APHIS regional office serving the area where the show will be held.

—Make records available for APHIS audits as stated under 9 CFR 11.23(b). These records may include, but are not limited to, class sheets, DQP (violation) tickets and penalty assessments, DQP assignments and show schedules, hearing minutes, DQP résumés, and DQP evaluations by HIO's.

—Evaluate individual DQP performances and take appropriate administrative action under 9 CFR 11.7(d)(7) and 11.7(f) and as outlined in the "Uniform Rules and Sanctions" section.

—The HIO hearing committee for DQP performance must notify the appropriate Animal Care regional office at least 7 days prior to any hearing so that an APHIS representative may be present.

—Prepare and distribute monthly submissions of suspension lists to respective regional Animal Care offices as noted under 9 CFR 11.7(d)(3). All HIO's must honor each other's suspension lists.

—Issue to violators HIO notices of suspensions within 1 week of the violation and date all suspensions to begin upon receipt of certified-mail notification. The violator has no say as to when suspension dates will commence. Suspensions of less than 8 months shall be served during the show season.² If the violation is appealed, the appeal must be requested in writing within 2 weeks of the date of the violation, and the decision must be finalized promptly (normally within 3 months of the date the appeal was filed). If the hearing committee determines that the appeal request was frivolous and made only for the purpose of postponing the suspension, the committee may assess further penalties.

² APHIS defines a show season as a specified time period when most horse shows occur: March 1 through October 31 of each year.

USDA Certification of the Horse Industry

HIO's certified by USDA would receive either a provisional, full, probationary, or decertified status, as determined by APHIS audits, inspections, and evaluations.

The following elements are necessary to achieve **full certification** [9 CFR 11.7(b)]:

- Formal written request on file with the APHIS Deputy Administrator for Animal Care
- Documentation of HIO organizational structure
- Financial statement or other method of demonstrating financial solvency
- Approved comprehensive rulebook, including standards of conduct and definitions of what constitutes a conflict of interest for organizational officers and DQP's, HIO mission statement, goals and objectives with time lines, and penalty system
- DQP program with a designated coordinator
- DQP selection criteria and individual résumés or qualifications of selected DQP's
- DQP training program, requirements for new DQP's, continuing education, example of written DQP test, and criteria for successful completion of training program
- DQP performance evaluations and mechanism for canceling licenses
- DQP hearing process
- Procedures for DQP's to monitor horses at shows and sales
- Name and address of the HIO's veterinary consultant (recommended)
- Complete and accurate records

APHIS' Deputy Administrator of Animal Care, upon recommendations from the Horse Protection Advisory Team, will provide final decisions on certification status.

Provisional certification can be requested by and granted only to new organizations that have met all current regulatory requirements except for the "Records" element. Such certification is limited to 1 year. At that time,

provisionally certified HIO's must meet full certification criteria.

Based upon APHIS audits, inspections, and evaluations, an HIO will be given a deadline within which period it must correct a noncompliant element. Correction dates may be appealed to the HIO's respective Animal Care regional office, and this appeal must reach that office before the correction period has elapsed. If the correction is made by the deadline, certification status is maintained. If the correction is not made on time, APHIS will place the HIO on probation. The period of time that an organization can remain in probationary status is limited to 6 months. (If the HIO corrects the problem, APHIS will recertify the HIO.)

Placement in probationary status may be appealed to the Horse Protection Advisory Team (through the appropriate Animal Care regional office).

If an HIO fails to correct by the end of the probationary period the problem that caused it to be placed on probation, it will be decertified and must wait 6 months to reapply. An HIO may appeal decertification as outlined in 9 CFR 11.7(g). At reapplication, it must meet full certification criteria (i.e., it cannot return to provisional status). Probationary and decertified organizations are subject to increased scrutiny by APHIS.

Uniform Rules and Sanctions

A credible, appropriate, and uniform penalty system remains the cornerstone of this proposal.

The following penalties and procedures will be adopted:

A Letter of Warning is an official notification of unsatisfactory DQP performance. Requests for the issuance of a Letter of Warning will be based on clear evidence of unsatisfactory performance. Standards for satisfactory DQP performance will be written and included in annual DQP training.

At the time a Letter of Warning is requested by the APHIS VMO, the DQP in question will be informed at the end of the show or sale.

Requests for Letters of Warning will then be forwarded to the relevant

Animal Care regional office for approval and will subsequently be forwarded to the DQP program director.

When a DQP receives a second Letter of Warning, his or her license will be canceled, and the individual cannot reapply for 3 years.

If, having once had his or her license canceled, a DQP reapplies and is issued a license and then receives a Letter of Warning within 2 years, his or her license will be canceled permanently.

Actions Taken Against Certified HIO's

- Revocation of HIO certification is based on chronic inaction or noncompliance to resolve DQP problems, on fraudulent bookkeeping, on data obtained from audits, and/or on any other noncompliance pertaining to items under 9 CFR Part 11.

Actions Taken at Affiliated Shows

- Use of current administrative hearing processes against exhibitor, trainer, owner, and/or other persons when necessary.
- Use of current administrative hearing processes against show management when management knowingly allows a horse to be shown after it has been found to be sore.
- Recommended sanctions determined for all violations by the Regional Horse Protection Coordinator.

Actions Taken at Unaffiliated Shows

- Use of current administrative hearing processes against show management, exhibitor, trainer, owner, and/or other persons when necessary.
- Recommended sanctions will be determined for all violations by the Regional Horse Protection Coordinator.

APHIS VMO's will continue to inspect at both affiliated and unaffiliated shows, with increased emphasis on those shows where the incidence of soring has been greatest. APHIS will initiate cases on those horses found to be sore, or otherwise in violation of the HPA, where appropriate penalties have not been imposed by the HIO.

HIO Penalty System

In the spirit of partnering, the graduated penalty chart in table 1 brings into harmony the various current HIO penalty systems. The categories outlined in the chart represent violations committed by horse industry participants under the HPA and its regulations. The chart reflects the relative severity of various violations as historically viewed by APHIS when attempting to settle a case. These penalties do not represent those that may be imposed under the HPA by an Administrative Law Judge after notice and opportunity for a hearing.

The minimum penalty levels described in table 1 will be adopted by all certified HIO's. Penalties are applied to the exhibitor, trainer, and owner. Penalties for bilateral soreness, scar rule, bad image, pressure shoeing, and unilateral soreness have 3-year time limit. Individuals with no additional violations for 3 years after a suspension has been served will be treated as first offenders for any subsequent offense of a similar nature. Penalties for the remaining violations in table 1 will be similarly removed after the end of each calendar year. All penalties in table 1 are cumulative and cannot be served concurrently.

Additional penalties, such as fines or suspensions of individuals found in violation, may be levied by individual HIO's at their discretion. All HIO's will honor each other's suspension lists, and all suspensions of less than 8 months shall be served during the horse-show season.

Postshow violators will be assessed appropriate penalties and will forfeit trophies, prizes, and class or category point awards. In the event that more than one violation is assessed during the inspection, all penalties will be applied and suspensions will be cumulatively served.

Table 1—Penalties for violations of the Horse Protection Act

Categories ¹	Penalties for each offense			
	<i>First</i>	<i>Second</i>	<i>Third</i>	<i>Subsequent</i>
Bilateral soreness	8 months	2 years	5 years	Life
Bad image	8 months	2 years	5 years	Life
Pressure shoeing	8 months	2 years	5 years	Life
Scar rule	8 months	2 years	5 years	Life
Unilateral soreness	2 months	6 months	1 year	3 years
Open lesions ²	— — Disqualified — — from class from show		1 month	3 months
Foreign substance ³	— — — — — — from class	— — — — — — from show	Disqualified — — — — — — from show	— — — — — — from show
Technical violations ⁴	— — — — — — Disqualified from class — — — — — —			
Unruly/Fractious horse ⁵	— — Disqualified — — from class from show			

¹ These categories do not represent degrees of soreness. Nor do they represent penalties that can be imposed under the HPA in a formal disciplinary proceeding. Their only purpose is to help facilitate enforcement of the HPA by using terms familiar to the industry.

² Any lesion having signs of hemorrhage resulting from self-inflicted injuries or other injuries normally not associated with soring or abuse. Those open lesions indicative of soring or abuse will be considered violations of the scar rule.

³ Includes odors as well as visible signs of a foreign substance.

⁴ Illegal shoeing, improper artificial toe extension, illegal action devices, improper bands, illegal pads, illegal heel-toe ratio, stewarding.

⁵ The unruly/fractious horse violation does not carry over to subsequent shows.

Training

Proper training of all participants in horse protection is essential. Training must contain certain elements and be applicable, informative, and uniform so that all USDA-certified HIO participants maintain consistency and accountability in their performance under this plan.

Primary groups of participants requiring training:

- Designated Qualified Persons
 - New DQP's under 9 CFR 11.7(b)(1) and (2)
 - Continuing education under CFR 11.7(b)(5)
- APHIS veterinarians
- Horse-show judges and apprentices

Combined APHIS and horse industry training programs will include the following areas:

- Common areas of training:
 - HPA, regulations, policy
 - Practical instruction in inspection techniques (standing, locomotion, palpation, digital pulse)
 - Conflict resolution, diplomacy, interpersonal skills
 - Identifying soring techniques
 - Recordkeeping and paperwork
 - New technology (thermography, fluoroscopy)
 - Case studies (visual aids)
- Specific areas of training (in addition to above):
 - New DQP's
 - Anatomy and physiology of the equine limb
 - History of soring
 - Standards of conduct, conflicts of interest
 - Written test (passing score required)
 - APHIS veterinarians
 - DQP evaluations
 - Legal case preparation
 - Horse-show judges and apprentices
 - Criteria for excusing a horse from the show ring (for example: bad image horses, scar rule, abnormal way of going)

With an effective training program, additional performance and measurement standards can be developed and analyzed. The initial development of an enforcement partnership in horse protection will begin with training. APHIS will continue to help organize and implement training for VMO's and DQP's, with input from industry and other interested parties.

In order to provide specialized training to horse industry participants, APHIS will set up training sessions by region. Similar training will be provided across all regions to ensure consistency and uniformity. APHIS will augment this training by developing educational materials and information that will be available to all horse industry constituencies.

Future considerations for training/ education within this program may include mentoring; education for horse groups, owners, and the public at large, especially youth; and a national campaign to publicize the HPA.

Research

Under this strategic plan, research would receive attention from APHIS, industry, and other allied groups in a cooperative effort.

Areas of potential study may include but are not limited to:

- Thermography, fluoroscopy, ultrasound, and other technologies to detect soring;
- Pathological or physiological effects of soring upon horses;
- Digital pulse measurements and their utilization in exams; and
- Shoeing techniques, action devices, and associated changes in the biomechanics of the limb.

Measurement standards for the horse protection program can be defined, established, and authenticated with the assistance of the medical and research communities. Research may be conducted by universities, corporations or private-practice veterinarians. APHIS will seek out resources for research from USDA and encourage HIO's, animal protection groups, and allied industry representatives to explore other research opportunities.

Appendix A: Animal Care Offices

Eastern Regional Office
2568–A Riva Road, Suite 302
Annapolis, MD 21401–7400
(410) 571–8692

Central Regional Office
P.O. Box 6258
Fort Worth, TX 76115–6258
(817) 885–6923

Western Regional Office
9580 Micron Avenue, Suite J
Sacramento, CA 95827–2623
(916) 857–6205

Headquarters
4700 River Road
Riverdale, MD 20737–1228
(301) 734–7833

Appendix B: Glossary

Affiliated shows or sales—Those shows or sales sanctioned by a USDA-certified HIO

Bad image—Descriptive term for any horse exhibiting signs of pain or distress in any or all of the following areas: appearance, locomotion, or physical examination

Horse Protection Advisory Team—A team comprised of a cross section of APHIS employees who are knowledgeable about the Horse Protection Program.

Horse-show season—A specified time period when most horse shows occur: March 1 through October 31 each year

Pressure shoeing—Any manner of shoeing a horse that causes it to suffer, or that can reasonably be expected to cause it to suffer, pain or distress or lameness when walking, trotting, or otherwise moving, or inflammation or soreness regardless of movement.

Scar—Fibrous tissue that has replaced normal tissue destroyed by an injury.¹

Soring—The application of any chemical or mechanical agent used on any limb of a horse or any practice inflicted upon the horse that can be expected to cause it physical pain or distress when moving.²

Unaffiliated shows or sales—Those shows or sales not sanctioned by a USDA-certified HIO

¹ The legal definition of the scar rule is found in Part 9 of the Code of Federal Regulations, sec. 11.3.

² The legal definition for “sore” is found in the Horse Protection Act as amended (15 U.S. Code, sections 1821–1831).